

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CHARLES RANDALL,
Petitioner,

v.

A. T. WALL, et al.,
Defendants.

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) C. A. No. 16-255-M-PAS
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ORDER

Mr. Randall filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, alleging charging errors and ineffective assistance of counsel. ECF No. 1 at 8-10. This is the fifth habeas petition Mr. Randall has filed with this Court. His previous four filings, *Randall v. Wall*, No. 10-CV-52-ML (D.R.I. Feb. 5, 2010); *Randall v. Wall*, No. 12-CV-489-ML (D.R.I. July 3, 2012); *Randall v. Wall*, No. 13-CV-652-ML (D.R.I. Sept. 24, 2013); and *Randall v. State of Rhode Island*, No. 14-CV-383-ML (D.R.I. Aug. 28, 2014) were all dismissed as unexhausted.

The crux of the issue is that on January 22, 2013, the Rhode Island Superior Court determined that Mr. Randall violated his probation and executed four years of his suspended sentence. *Randall*, No. 13-CV-652-ML, ECF No. 8 at 2. Mr. Randall never appealed this decision to the Rhode Island Supreme Court. *Id.*, ECF No. 5-2 at 10. He can no longer appeal that decision, because the time for appeal ran out 20 days after entry of judgment. Article I, Rule 4(b) of the R.I. Supreme Court Rules of Appellate Procedure. Having failed to appeal the Superior Court's decision, Mr. Randall did not exhaust the remedies available to him in state court, as required by

28 U.S.C. § 2254(b)(1)(A). This procedural default now prevents him from raising those claims in a petition for federal habeas corpus relief. *O'Sullivan v. Boerckel*, 526 U.S. 838, 848 (1999). His petition is dismissed pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. Mr. Randall's Motion for Leave to Proceeds in Forma Pauperis (ECF No. 2) is DENIED as moot.

IT IS SO ORDERED:



John J. McConnell, Jr.
United States District Judge

June 14, 2016